

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. FILED: MARCH 31, 2008
	)	08 CV 1838 JH
HELEN CRAFT GAWLIK,	)	JUDGE DARRAH
	)	MAGISTRATE JUDGE ASHMAN
Defendant.	)	
	)	
	)	

**COMPLAINT**

The United States of America, by Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, brings this action against defendant, Helen Craft Gawlik, for repayment under common law theories of payment by mistake and unjust enrichment.

**Jurisdiction and Venue**

1. This court has jurisdiction over this matter pursuant to 28 U.S. C. §§ 1345 and 1355.
2. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. §§ 1391(b) and 1395(a).

**Parties**

3. The plaintiff is the United States of America acting on behalf of the United States Office of Personnel Management ("OPM").
4. The defendant, Helen Craft Gawlik, is a domiciliary of the State of Illinois and resides at 4229 North Bloomington Avenue, Arlington Heights, Illinois 60004.

### **Factual Background**

5. As one of its functions, OPM executes and administers the Civil Service Retirement System (“CSRS”) pursuant to 5 U.S.C. § 1103 and 5 U.S.C. §§ 8331-8351. CSRS provides benefits to retired federal employees, who are referred to as annuitants. An annuitant receives CSRS benefits throughout his/her lifetime.

6. Prior to retirement, a federal annuitant has the option to choose a spousal benefit, where upon the annuitant’s death, the amount of the annuity is decreased and then transferred to the surviving spouse. Survivor benefits for eligible surviving children cease at age 18 or, if the child remains a full time student, at age 22. A survivor annuity is payable only upon OPM’s approval of an application from the eligible family member.

7. Noalie M. Craft was a federal survivor annuitant and was the recipient of CSRS survivor annuity benefits.

8. On December 25, 1997, Noalie M. Craft died. A true and correct copy of the State of Illinois medical certificate of death of Noalie M. Craft is attached as Exhibit A.

9. The informant on Noalie M. Craft’s certificate of death is listed as Helen Wilson, relationship – daughter, mailing address – 1558 Anderson Lane, Buffalo Grove, Illinois 60089.

10. Helen Wilson is also known as Helen Craft Gawlik.

11. At the time of Noalie M. Craft’s death, Helen Craft Gawlik, date of birth April 11, 1955, was 42 years old, which made her ineligible to receive CSRS survivor annuity benefits as a surviving child.

12. OPM was not notified of Noalie M. Craft’s death and continued to make benefit payments resulting in an overpayment of \$59,820 between January 1, 1998, and June 30, 2006.

13. On June 23, 1994, Noalie M. Craft opened First Midwest Bank N.A. account number 104708500. On April 21, 1995, the account holder information was revised to read the account holders as Noalie M. Craft and Helen Wilson.

14. Noalie M. Craft's CSRS federal survivor annuity payments were deposited into First Midwest Bank N.A. account number 104708500 by Department of Treasury electronic funds transfer ("EFT").

15. Between April 1, 2002, and June 30, 2006, \$31,377 in CSRS federal survivor annuity payments were paid to Noalie M. Craft by Department of Treasury EFT to First Midwest Bank N.A. account number 104708500. Noalie M. Craft was not legally entitled to the \$31,377 in CSRS benefits because she had died. Helen Craft Gawlik was not legally entitled to the \$31,377 in CSRS benefits.

16. After December 31, 1997, Helen Craft Gawlik wrote checks withdrawing funds from First Midwest Bank N.A. account number 104708500, including the \$31,377 overpayment deposited into this account by OPM for the benefit of Noalie M. Craft.

17. Between April 1, 2002, and June 30, 2006, Helen Craft Gawlik obtained \$31,377 in CSRS federal survivor annuity benefits to which she was not legally entitled.

18. Helen Craft Gawlik converted the \$31,377 in CSRS federal survivor annuity benefits to her own use.

19. On September 28, 2007, OPM Office of Inspector General Special Agent Katrina Dawkins interviewed Helen Craft Gawlik, who acknowledged that she had written checks to withdraw her mother's benefits after Noalie M. Craft's death.

**Count I**

**Payment By Mistake**

20. This is a civil action brought by the United States against Helen Craft Gawlik under common law for payment by mistake.

21. The United States repeats and realleges each allegation set forth above in paragraphs 1 through 19 as if set forth fully herein.

22. Helen Craft Gawlik made omissions by failing to report the fact of Noalie M. Craft's death to OPM in order to collect \$31,377 in CSRS survivor annuity benefit payments.

23. The United States paid out this money because it mistakenly believed that Noalie M. Craft was still living. The United States' erroneous belief was material to the payments which it made and which benefitted Helen Craft Gawlik.

24. As a result of this mistake, Helen Craft Gawlik has received monies to which she is not entitled.

25. By reason of the overpayments described above, the United States is entitled to damages in the amount of at least \$31,377.

**Count II**

**Unjust Enrichment**

26. This is a civil action brought by the United States against Helen Craft Gawlik under common law for unjust enrichment.

27. The United States repeats and realleges each allegation set forth above in paragraphs 1 through 19 as if set forth fully herein.

28. As a result of the omissions of Helen Craft Gawlik as more fully set forth above, Helen Craft Gawlik received CSRS survivor annuity benefits that she was not entitled to receive. Helen Craft Gawlik has been unjustly enriched with federal monies which in good conscience and in the interest of justice she should not be allowed to retain.

29. Helen Craft Gawlik has been unjustly enriched to the detriment of the United States in the amount of at least \$31,377.

### **Claim For Relief**

WHEREFORE, the United States demands judgment against the defendant as follows:

(a) on Count I (Payment by Mistake), judgment against Helen Craft Gawlik for single damages, pre- and post-judgment interest and costs, and any such further relief as the court deems appropriate; and

(b) on Count II (Unjust Enrichment), judgment against Helen Craft Gawlik for single damages, pre- and post-judgment interest and costs, and any such further relief as the court deems appropriate.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

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EXHIBIT A

REGISTRATION DISTRICT NO. 49.6		STATE OF ILLINOIS		STATE FILE NUMBER	
REGISTERED NUMBER 607		MEDICAL CERTIFICATE OF DEATH 97 073127			
DECEASED-NAME FIRST MIDDLE LAST		SEX		DATE OF DEATH (MONTH, DAY, YEAR)	
1. NOBLE MARY CRAFT		2. Female		3. December 25, 1997	
COUNTY OF DEATH		AGE-LAST BIRTHDAY (YRS)		DATE OF BIRTH (MONTH, DAY, YEAR)	
4. Lake		5a. 76		5b. December 25, 1921	
CITY, TOWN, TWP. OR ROAD DISTRICT NUMBER		HOSPITAL OR INSTITUTION NAME (IF NOT IN EITHER, GIVE STREET AND NUMBER)		IF HOME, OR INST., INDICATE D.O.A. OF HOME, OR INPATIENT (SPECIFY)	
6a. Buffalo Grove		6b. 1558 Anderson Lane		6c. at Home	
BIRTHPLACE (CITY AND STATE OR FOREIGN COUNTRY)		MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (SPECIFY)		NAME OF SURVIVING SPOUSE (MAIDEN NAME, IF WIFE)	
7. New Orleans LA.		8a. Widowed		8b. None	
SOCIAL SECURITY NUMBER		USUAL OCCUPATION		KIND OF BUSINESS OR INDUSTRY	
10. 438-14-8088		11a. Homemaker		11b. at Home	
RESIDENCE (STREET AND NUMBER)		CITY, TOWN, TWP. OR ROAD DISTRICT NO.		INSIDE CITY (YES/NO)	
13a. 1558 Anderson Lane		13b. Buffalo Grove		13c. Yes	
STATE		ZIP CODE		RACE (WHITE, BLACK, AMERICAN INDIAN, etc.) (SPECIFY)	
13a. Illinois		13b. 60089		14a. White	
FATHER-NAME FIRST MIDDLE LAST		MOTHER-NAME FIRST MIDDLE LAST		(MAIDEN) LAST	
15. Frank Matthews Callaghan		16. Ellen Mary Connors			
INFORMANT'S NAME (TYPE OR PRINT)		RELATIONSHIP		MAILING ADDRESS (STREET AND NO. OR R.F.D., CITY OR TOWN, STATE, ZIP)	
17a. Helen Wilson		17b. Daughter		17c. 1558 Anderson Ln. Buffalo Grove IL 60089	
18. PART I: Enter the diseases, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line.		IMMEDIATE CAUSE (Final disease or condition resulting in death)		CONDITIONS, IF ANY WHICH GIVE RISE TO IMMEDIATE CAUSE (a) STATING THE UNDERLYING CAUSE LAST.	
		(A) ADRENAL MEDULLARY PHEOCHROMOCYTOMA			
		(B) DUE TO, OR AS A CONSEQUENCE OF			
		(C) DUE TO, OR AS A CONSEQUENCE OF			
PART II: (Over significant conditions contributing to death but not resulting in the underlying cause given in PART I)		AUTOPSY (YES/NO)		IF AUTOPSY FROM AN AVAILABLE SOURCE, COMPLETION OF CAUSE OF DEATH (YES/NO)	
		19a. No		19b. No	
DATE OF OPERATION, IF ANY		MAJOR FINDINGS OF OPERATION		IF FEMALE, WAS THERE A PREGNANCY IN PAST THREE MONTHS?	
20a.		20b.		20c. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(100) (DID NOT) ATTEND THE DECEASED AND LAST SAW HIM/HER ALIVE ON (MONTH, DAY, YEAR)		WAS CORONER OR MEDICAL EXAMINER NOTIFIED? (YES/NO)		HOUR OF DEATH	
21a. December 11, 1997		21b. Yes		21c. 1:46 A.M.	
TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSE(S) STATED.		DATE SIGNED (MONTH, DAY, YEAR)		ILLINOIS LICENSE NUMBER	
22a. SIGNATURE		22b. 12/26/97		22c. 036 06165	
NAME AND ADDRESS OF CERTIFIER (IF FLO ON PRINT)		NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (TYPE OR PRINT)		NOTE: IF AN INJURY WAS INVOLVED IN THIS DEATH THE CORONER OR MEDICAL EXAMINER MUST BE NOTIFIED.	
22a. CURLEY S. DELANO JR. 391 S. SCOTT AVE. CHICAGO ILL 60606		22b. CURLEY S. DELANO JR. 391 S. SCOTT AVE. CHICAGO ILL 60606			
BURIAL OR CREMATION (SPECIFY)		CEMETERY OR CREMATORY-NAME		LOCATION CITY OR TOWN STATE	
24a. Cremation		24b. Lakewood Crematory		24c. Lake Bluff Illinois	
FUNERAL HOME		NAME STREET AND NUMBER OR R.F.D. CITY OR TOWN STATE ZIP		DATE (MONTH, DAY, YEAR)	
25a. Kolissak Funeral Home Ltd. 189 S. Milwaukee Av. Wheeling Illinois 60090		25b. Kolissak Funeral Home Ltd. 189 S. Milwaukee Av. Wheeling Illinois 60090		25c. Dec. 26, 1997	
FUNERAL DIRECTOR'S SIGNATURE		FUNERAL DIRECTOR'S ILLINOIS LICENSE NUMBER		DATE FILED (LOCAL REGISTRATION DAY, YEAR)	
25a. David A. Kolissak		25b. 9797		25c. DEC 26 1997	
LOCAL REGISTRATION'S SIGNATURE		DATE FILED (LOCAL REGISTRATION DAY, YEAR)			
26a. David W. Fuhrman		26b. DEC 26 1997			

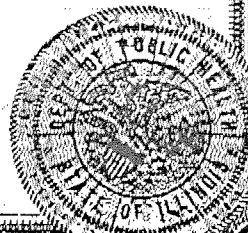
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This is to certify that this is a true and correct copy of the official record filed with the Illinois Department of Public Health.

DATE ISSUED

MAY 03 2007

Eric E. Whitaker M.D.

ERIC E. WHITAKER, M.D.  
STATE REGISTRAR

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE